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Chairman: Mr. Wolfe ..... (Jamaica)

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07-56529 (E)

The meeting was called to order at 10.15 a.m.

Agenda item 70: Promotion and protection of human rights (*continued*) (A/62/36, 369 and 464)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (A/62/183, 207, 212, 214, 218, 222, 225, 227, 254, 255, 265, 280, 286, 287, 288, 289, 293, 298, 304, 317; A/C.3/62/3)

(c) Human rights situations and reports of special rapporteurs and representatives (A/62/213, 223, 263, 264, 275, 313, 318, 354 and 498)

(e) Convention on the Rights of Persons with Disabilities (A/62/230)

1. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that 2007 marked the twenty-fifth anniversary of the first human rights thematic special rapporteurship, which dealt with extrajudicial killings. For that reason and because of the review of mandates currently being undertaken by the Human Rights Council, his report (A/62/265) contained a historical review of the evolution of the mandate. The themes he had selected to illustrate that evolution were counter-terrorism, the protection of refugees and internally displaced persons (IDPs) and the issue of non-State actors.

2. With regard to non-State actors, he had made a special effort over the previous three years to demonstrate that special procedures could and should respond to abuses committed by rebels and other armed opposition groups. That view had not been widely accepted a decade earlier. Today, however, Governments increasingly agreed that there was a need to engage with any armed group that violated human rights.

3. Several conclusions had emerged from his review. First, though the initial formulation of special procedures mandates was inevitably narrow, such mandates evolved in response to factors such as additional demands by States, new forms of violations, increasing public demands for effective responses and the development of new techniques and expectations within the broader human rights regime. The ability to adapt and evolve was essential.

4. Second, extrajudicial executions mandate contradicted the stereotype of special procedures involving Western experts focusing disproportionately on Governments of developing countries. Despite the regional diversity among previous Special Rapporteurs, the general approach adopted had remained consistent over time, and many of the incidents addressed had alleged violations by developed country Governments.

5. Third, procedures went to the heart of the potential effectiveness of a mandate such as his own. He had sought to streamline the system of communications, to respect the confines of the mandate while acknowledging the broader context on country visits, to limit the scope of his recommendations and to be as precise as possible. Despite such endeavours, productive engagement with Governments and with the Human Rights Council remained an overwhelming challenge. Accountability remained a prominent theme in the debates on the Council's new procedures and practices.

6. The majority of Governments were failing the basic test of accountability, a fact illustrated most dramatically in relation to requests for visits. That abdication of responsibility discouraged cooperation by other States, rewarded uncooperative States and established a system of impunity with regard to concerns over extrajudicial executions. The impotence of the Special Rapporteur in such situations made a mockery of the special procedures in relation to extrajudicial executions.

7. With regard to specific country situations, the Islamic Republic of Iran had been a party to the Covenant on Civil and Political Rights since 1968 and to the Convention on the Rights of the Child since 1991. Both treaties banned the execution of juveniles, yet Iran executed more juveniles than any other countries. He had written on nine occasions to the Iranian Government in that connection without receiving a single response, and the executions continued. Other major problems in Iran included the imposition and carrying out of the death penalty for a wide range of crimes that did not meet the requirements of international law to restrict executions to those guilty of the most serious crimes. Mass executions had been reported increasingly in 2007, sometimes occurring only a short time after arrest. Such circumstances made a mockery of any pretence to have respected due process rights. Lastly, the provisions of the Penal Code which provided for adulterers and others to be stoned to death remained in force. Those laws were barbaric by any standards.

8. Concerning the Philippines, he was aware that a significant number of encouraging initiatives had been taken since his visit. However, he continued to receive deeply disturbing reports. The Government's decision to continue to establish barriers to Congressional oversight of the military was disappointing, especially after his interim report on the mission identified those barriers as a key problem.

9. The Sri Lankan Government continued to contest his characterization of the situation in that country as an impending crisis, while the crisis continued to worsen. The establishment of an international human rights monitoring presence by the United Nations would reduce significantly the number of human rights abuses in Sri Lanka.

10. **Mr. Ermita** (Philippines) said he recognized that many of the Special Rapporteur's recommendations had been made constructively. The Special Rapporteur's visit to the Philippines had sparked enhanced national discussions on human rights protection. The Special Rapporteur, the independent Philippine Human Rights Commission and the Melo Commission, created to investigate the activist and media killings, had all concluded that there was no State policy condoning or ordering such killings, and had blamed rogue elements in uniform and members of insurgency groups. However, the Government did not shirk its responsibility to bring the perpetrators to justice and prevent further killings. The Government had recently reiterated instructions for security forces to actively prevent human rights violations by rogue men in uniform. His delegation shared the Special Rapporteur's desire to see results shortly, particularly in the form of convictions. Six persons had already been convicted.

11. The Government's main institutional responses included the establishment of a police task force to investigate police, political and media killings, the strengthening of the Presidential Human Rights Committee and improvements of the witness protection programme. The Commission on Human Rights had been given additional funding. Also, to address the charge of a culture of impunity, the President had ordered security forces to investigate cases involving men in uniform. The judiciary had established the remedy of amparo, allowing victims to apply for protective measures.

12. His delegation reaffirmed its commitment to protecting and promoting human rights, and it reserved the right to address the report more thoroughly when the Special Rapporteur presented it formally before the Human Rights Council.

13. **Mr. Khani Jooyabad** (Islamic Republic of Iran) said that his country and many other Member States recognized capital punishment as an effective means of protecting the right to life of potential victims of serious crimes, including terrorism, drug trafficking and sabotage. Sovereign States, not the Special Rapporteur, should define the scope of the most serious crimes in their domestic laws. It was well beyond the mandate of the Special Rapporteur to pass judgement on capital punishment according to a hidden personal agenda. According to the report, a majority of countries did not cooperate with the Special Rapporteur's mandate; one of the main reasons for that was the way in which the Special Rapporteur conducted and performed his mandate. He requested that the Special Rapporteur should abide by and work within the remit of his mandate, as defined by sovereign States. On the question of juveniles, the statements made by the Special Rapporteur were exaggerations. Iran was abiding by due process and acting in accordance with international and domestic laws, specifically the International Covenant on Civil and Political Rights.

14. **Ms. Castelo** (Portugal), speaking on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Iceland, Liechtenstein, Moldova, Norway and Ukraine, noted that the Special Rapporteur would soon be submitting a report on the situation worldwide with regard to extrajudicial, summary or arbitrary executions. She asked what the most significant developments on the issue were and how the Special Rapporteur thought the phenomenon might be combated most effectively. She also requested a brief description of the situation in Darfur in advance of the final report of the Group of Experts on Darfur, which would soon be released. She wondered whether the Sudanese Government was acting on the Group's earlier recommendations. Lastly, with regard to the lack of cooperation with the Special Rapporteur's requests for invitations to countries, she noted that some of the countries involved were members of the Human Rights Council and thus responsible for

upholding the highest standards in the promotion and protection of human rights, in accordance with the resolution establishing the Council. She wondered what steps were being taken to address that lack of cooperation in response to requests by special procedures mandate holders for visits.

15. **Mr. Casal** (Bolivarian Republic of Venezuela) said that the Special Rapporteur's requests for an invitation to visit his country were taken very seriously, and that his Government hoped to be able to respond positively to them as soon as possible. Arrangements would be made to ensure optimal conditions for the Special Rapporteur to pursue fully his mandate. He would also appreciate the Special Rapporteur's thoughts about the legal definition of deaths caused by private contractors hired by States in the context of armed conflicts and about the responsibility of States that might be involved in those acts.

16. **Mr. Chernenko** (Russian Federation) said that his delegation had listened with interest to the views of the Special Rapporteur concerning non-State actors and responsibility for human rights violations. It seemed that States intentionally avoided responsibility for such violations by blaming non-State actors. The use of armed groups and private security companies was becoming the norm in military actions, precisely because of the impunity they enjoyed. His delegation would be interested to hear the views of the Special Rapporteur on the approach to be taken when such auxiliary forces were established specifically in order to avoid responsibility and control of their actions.

17. **Ms. Norin** (United States of America) said that her country had extended an invitation to the Special Rapporteur for a country visit, and that her Government looked forward to working with him to assure a constructive visit. The United States appreciated the ongoing and constructive dialogue with the Special Rapporteur about the appropriate scope of his mandate when matters governed by the law of armed conflict were involved. However, as the Special Rapporteur himself recognized, determining responsibility in such situations could be legally complex. Her delegation looked forward to addressing those issues in detail in future interactions.

18. **Ms. Sutikno** (Indonesia) said that, as the process of review of special procedures was an ongoing one undertaken by the Human Rights Council, her delegation would refrain from commenting extensively on the issue. Indonesia, an active member of the Human Rights Council, had been cooperating with the United Nations human rights mechanisms, inter alia by accepting visits from three Special Rapporteurs in the previous year alone, in addition to the recent visit of the High Commissioner for Human Rights. The High Commissioner had expressed satisfaction with her visit to Indonesia in a statement to the Third Committee, and had presented a brief report on the country visit at the sixth session of the Council.

19. Despite her country's desire to welcome as many visits as possible, she drew attention to the importance of the Code of Conduct for Special Procedures Mandate Holders and the principle of extending invitations to visits by human rights observers based on the consent of the countries concerned. Further, extending an invitation to any Special Rapporteur would require ensuring that the timing of the visit was opportune and that the visit would involve as many stakeholders as possible. Indonesia was in the process of preparing for the visit of the Special Rapporteur on torture, scheduled to take place in November 2007.

20. **Ms. Colonne** (Sri Lanka) said that since the visit of the Special Rapporteur to her country in 2006, notable developments had included the visit of the United Nations High Commissioner for Human Rights, who had acknowledged that the visit had been useful and constructive. Her Government did not disregard its responsibility to protect the rights of all its citizens and had at no time shown reluctance to engage closely with Office of the United Nations High Commissioner. A detailed statement on additional measures taken in Sri Lanka would be presented later in the Third Committee's debate on the agenda item. In 2007 Sri Lanka had received the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, and it would shortly be hosting the representative of the Secretary-General on internally displaced persons.

21. **Mr. Ke** Yousheng (China) said that China had a complete set of domestic laws on extrajudicial, summary or arbitrary executions. As a member of the Human Rights Council, it had always attached importance to meeting the commitments it had made while campaigning for membership of the Council, and had cooperated actively with its special procedures. In recent years, China had received Special Rapporteurs on torture, on freedom of religious belief and on the

right to education, in addition to the Chairman of the Working Group on Arbitrary Detention. His Government would make its own plans and arrangements for visits by different types of Special Rapporteurs, in an order reflecting a balance between different kinds of rights.

22. **Mr. Menon** (Singapore) said that his delegation wished to address the allegations in the report (A/62/265) to the effect that the Singapore Government had refused the Special Rapporteur's request to conduct a country visit and had accused him of pursuing a personal agenda that exceeded his mandate. That was a misleading portrayal of events.

23. The mandate of the Special Rapporteur was clearly defined, and was confined to extrajudicial, summary and arbitrary executions, acts which Singapore neither committed nor condoned. All capital punishment cases were conducted in accordance with the country's laws and subject to judicial safeguards. The integrity and transparency of Singapore's legal system was well known. All persons were ensured Constitutional safeguards and due process of law.

24. The Special Rapporteur had chosen to ignore those facts, and instead had used his position to campaign against death sentences handed down by the Courts. Such actions were clearly beyond the mandate conferred on him by the former Commission on Human Rights and the Human Rights Council. The Special Rapporteur had issued public statements in his capacity as a United Nations official asserting that the laws of Singapore were inconsistent with international human rights standards, ignoring the fact that capital punishment was not prohibited under international law, provided it was imposed according to due process of law. His delegation also wished to remind the Special Rapporteur that there was no international consensus on whether capital punishment was a violation of human rights. The question was one which every State had the sovereign right to decide, taking into account its own circumstances.

25. The Singapore Government recognized that capital punishment was a severe penalty, imposed only for the most serious crimes in accordance with the law. It was an important component of Singapore's legal and justice system. Despite holding strong personal views about capital punishment, the Special Rapporteur should not abuse the authority of his office to pursue a personal agenda, and certainly not on limited United Nations resources.

26. In June 2007, the Human Rights Council had adopted the Code of Conduct for Special Procedures Mandate Holders, which stated that mandate holders should bear in mind the need to ensure that their personal political opinions were without prejudice to the execution of their mission, and should base their conclusions and recommendations on objective assessments of human rights situations. If mandate holders were to have the moral authority and credibility to carry out their mandates, their conduct must be above reproach. The Special Rapporteur would do well to be reminded of that.

27. **Mr. Karanja** (Kenya) said that Kenya welcomed the forthcoming visit of the Special Rapporteur subsequent to the current general election period, after the newly elected President had had time to form a government.

28. **Mr. Alston** (Special Rapporteur on extrajudicial, summary or arbitrary executions) expressed appreciation to the many countries which had entered into dialogue with him or which were considering issuing an invitation for him to visit. He acknowledged that balance and timing were important, but said that it was particularly significant when a Government avoided engagement on the subject of extrajudicial executions.

29. Concerning the issue of private contractors, which was currently being considered by the Working Group on mercenaries, he said that the principal responsibility for the actions of military contractors, lay with the host State. In response to the recent incidents in Iraq, the Iraqi cabinet had as a first step rescinded the immunity provisions covering private contractors. The sending country, however, should take State responsibility for the observance of human rights by those it employed.

30. With regard to the concerns raised by the representative of Singapore, while on a three-week visit to the country in his academic capacity, he had been stuck by a newspaper article calling attention to the plight of drug couriers from Singapore who had been sentenced to death in other countries. Accused drug couriers were far better off, however, in other countries than they would be in Singapore, where a mandatory death penalty was imposed for that offence and 400 executions had been carried out over the past

15 years. There was not a single international human rights body which had not concluded that the mandatory death penalty imposed in Singapore for the possession of very small quantities of drugs was a violation of international law. The Law Society of Singapore had recently presented a discussion paper to the Government proposing that the provision should be eliminated and citing the need to respond to emerging values within Singaporean society itself.

31. In reply to the representative of the European Union, he said that the Group of Experts on Darfur was currently meeting, and expressed satisfaction at the level of engagement of the Government of the Sudan. The real test would come at the November 2007 meeting of the Group, when it discussed what measures had actually been taken. On the subject of visits, it was incumbent on Human Rights Council members to engage directly with the special procedures.

32. He believed that the system of special procedures was the crown jewel of the human rights system. The fact that Governments maintained the system and engaged with it was encouraging.

33. **Mr. Menon** (Singapore) said that the newspaper article referred to by the Special Rapporteur had appeared in the "Straits Times", a local paper which did not represent the views of the Government. The proposal raised by the Law Society would be discussed and decided internally. It was not for the Special Rapporteur to tell the Government that it was obligated to accept the proposal.

34. **Ms. Jahangir** (Special Rapporteur on freedom of religion or belief), introducing her report (A/62/280), said that the effective protection and promotion of the right to freedom of religion or belief posed serious challenges to all States. Preventive measures were crucial in that regard. Specific attention should be paid to the situation of such vulnerable groups as women, persons deprived of their liberty, refugees, children, minorities and migrant workers. Refugees, asylum-seekers and internally displaced persons were in a situation of special vulnerability, which might also be linked to their freedom of religion or belief. The legal framework for refugee claims based on religion also touched on the question what the terms "religion" and "belief" encompassed.

35. Her report also addressed concerns raised by atheistic and non-theistic believers and the protection of the right not to profess any religion or belief. There were worrying trends towards applying blasphemy laws in a discriminatory manner, often disproportionately punishing non-theists, atheists and members of religious minorities.

36. The three main pillars of her mandate were communications, country visits and thematic reports or speeches. Since the inception of the mandate, more than 1,100 allegation letters and urgent appeals had been sent to a total of 130 States. Although 63.6 per cent of Governments on average replied to communications annually, 20 States, four of which were Human Rights Council members, had never replied to a communication.

37. Country visits, the second pillar of the mandate, enabled her to talk directly with governmental and non-governmental representatives and gather first-hand information. A total of 24 visits had been undertaken by mandate holders. In 2007, she had visited Tajikistan and the United Kingdom; a visit to Angola was scheduled for November. She had also received invitations from the Governments of India, Israel and Turkmenistan.

38. Thematic studies and speeches at international consultations gave her an opportunity to address issues of concern in detail. She had recently collaborated with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on a report entitled "Incitement to racial and religious hatred and the promotion of tolerance" (A/HRC/2/3) for the second session of the Human Rights Council in September 2006. The categories of her framework for communications to States had been developed into an online digest illustrating international standards, with excerpts of findings since 1986, which should serve as a useful tool for Governments and non-governmental organizations alike.

39. Both she and her predecessors had repeatedly regretted the fact that freedom of religion or belief was not a reality for many throughout the world. Religious intolerance had increased, especially since 2001, and actors working for peace and tolerance had been marginalized. The two main strands of her mandate deserved equal attention. On the one hand, freedom in pursuing one's religion or belief must be protected and respected, and on the other, the rights of individuals must not be violated on the premise of religion or belief. Impunity should not be granted when criminal

acts were given a religious label. At the same time, Governments should be proportionate in their actions, abide by the rule of law and respect international human rights standards.

40. The appropriate role of Governments in promoting freedom of religion or belief was to engage in wise and balanced decision-making at all levels; non-discriminatory legislation and an independent judiciary were also crucial. Protection must be complemented by prevention efforts. States should devise proactive strategies to prevent acts of intolerance and discrimination and identify possible conflicts between communities of religion or belief in advance. However, specific legislation should be introduced with caution, since over-regulation could be counterproductive. Inter-religious dialogue should be encouraged, and should involve not only religious leaders but initiatives at the grass-roots level. Education could play an important preventive role, especially when it ensured acceptance of pluralism and diversity. She was currently involved in efforts by a regional organization to develop guiding principles on teaching about religions and beliefs in public schools.

41. There were several root causes of religious intolerance, which varied from society to society. What was needed was the capacity and vision of political and religious leaders to react to it in a balanced manner. It was essential to detect early signs of developments that might lead to religious persecution or intolerant behaviour. Extreme measures gave rise only to further extremism. If mutual tolerance, understanding and genuine interest could be established at the grass-roots level, many incidents of intolerance and discrimination based on religion or belief might ultimately be prevented.

42. **Ms. Martins** (Portugal), speaking on behalf of the European Union, asked what measures would be most urgent in overcoming obstacles to protection of religious freedom raised by blasphemy laws. She would also like to know how specific regulations could prove to be counterproductive, and how to prevent a hierarchy of beliefs most effectively.

43. **Ms. Khvan** (Russian Federation) welcomed the Special Rapporteur's balanced and objective approach to her mandate, as reflected in the report (A/62/280). Her delegation agreed that criminal acts committed in the name of religious beliefs should not go unpunished, but that Governments should respond only in accordance with the rule of law and international human rights norms. She asked the Special Rapporteur to define the role of Governments in ensuring freedom of religion while at the same time combating intolerance and discrimination. The Special Rapporteur should also explain how she managed to balance the promotion of freedom of opinion with the protection of the religious sentiments and beliefs both of individuals and groups. The responsibility of non-State actors for violations of human rights should also be examined.

44. **Ms. Nelson** (Canada) said that her delegation encouraged the Special Rapporteur to continue her country visits, which constituted a fundamental pillar of the mandate. She enquired about any requests for visits to countries of concern which had not yet received a response. Canada was also deeply concerned at ongoing discriminatory practices which targeted religious minorities as well as incitement to violence in the name of religion, and asked whether the Special Rapporteur could elaborate on preventive measures that Governments could take to avoid the problem. Finally, it would be interesting to hear how the Special Rapporteur saw the linkages between her mandate and other human rights mandates and how she cooperated with other mandate holders.

45. **Mr. Casal** (Bolivarian Republic of Venezuela) drew attention to the issue of non-State actors in the form of religious groups who sought to change religious beliefs among indigenous communities and saw indigenous belief systems as inferior. He would therefore be interested in hearing the Special Rapporteur's understanding of the concept of defamation of religion, which his delegation saw as a legal concept.

46. **Mr. Rees** (United States of America) said that the responsibility to protect the right to religious freedom fell to all Governments, but should never be arbitrarily abridged by any Government. Because of the importance it accorded to that right, the United States appreciated the dedicated work of the Special Rapporteur. Her report accurately identified the issues that limited religious freedom, and provided a workable set of recommendations for overcoming religious intolerance. His delegation would be interested to know whether the Special Rapporteur had approached any Governments regarding the implementation of those recommendations.

47. Given the pressing need to promote religious freedom, the United States strongly supported the extension of the Special Rapporteur's mandate, which must be free of amendments that would limit or weaken the ability to work effectively. The continuation of her vigorous engagement with Governments was critical, as those contacts were important tools for investigating allegations of abuse and for allowing Governments to respond and take corrective measures. However, it opposed efforts to alter the mandate in ways that would permanently add additional elements. Those efforts had focused primarily on issues of defamation of religion. While it discouraged actions that were offensive to particular religious traditions, his delegation also believed that basic freedoms required that all persons should be able to critique religious practice without fear of reprisal.

48. **Ms. Sutikno** (Indonesia) said that her country was proud of its diversity and remained committed to freedom of religion. The case mentioned in the report of the Special Rapporteur (A/62/280) was therefore an isolated case and should not be regarded as deliberate disrespect for human rights. She asked why the Special Rapporteur had difficulty in accepting the concept of defamation of religion, since there had been many deadly consequences of incitement to hatred towards religions.

49. **Mr. Ermita** (Philippines) said he was particularly impressed by the Special Rapporteur's plea for inter-faith dialogue and invited her to focus further on multilateral approaches to safeguard freedom of religion or belief.

50. **Mr. Meyer** (Observer for the Holy See) said that his delegation supported the Special Rapporteur's recommendation to devise proactive strategies to prevent acts of intolerance based on religion or belief and asked whether she could outline some best practices and creative initiatives that could serve as models in that respect.

51. **Mr. Pham Hai Anh** (Viet Nam) said he wished to make a clarification concerning footnote 22 in the report of the Special Rapporteur. That footnote referred to a "summary of the exchange of letters" contained in two reports that had been submitted to the Commission on Human Rights. In juxtaposition to the other footnotes, which referred to replies from Governments, the footnote was somewhat ambiguous and gave the erroneous impression that the Government of Viet Nam had not replied to the Special Rapporteur. His Government had, in fact, replied in the two aforementioned reports.

52. **Mr. Tun** (Myanmar) said that his delegation firmly rejected paragraph 45 of the Special Rapporteur's report stating that a number of citizens in western Myanmar had been subjected to extrajudicial execution and torture and that many had fled to Bangladesh. He considered those charges inane and inept, tantamount to driving a wedge between Myanmar and Bangladesh, two friendly neighbours that had resolved in an exemplary way the problem of illegal immigration.

53. **Mr. Attiya** (Egypt) said that religious defamation on the pretext of freedom of opinion or expression was in fact a violation of the rights of others. It was therefore important to focus on promoting respect and mutual understanding among religions and cultures.

54. **Mr. Chihuailaf** (Chile) said that the right not to profess any religion or belief should be protected. He would appreciate the Special Rapporteur expanding on her statement that proactive strategies that should be devised to prevent acts of intolerance and discrimination. He would also welcome further details concerning her comment that specific legislation should be introduced in a cautious manner because compulsory overregulation might prove to be counterproductive.

55. **Mr. Sergiwa** (Libyan Arab Jamahiriya) said that Muslims in some countries were subjected to discrimination on the false premise that Islam and terrorism were linked. He hoped that the Special Rapporteur would pursue her efforts to consolidate tolerance and present specific recommendations to safeguard religious freedom.

56. **Ms. Jahinger** (Special Rapporteur on freedom of religion or belief) said that any religious hatred that served as an incitement to discrimination, hostility or violence fell under article 20, paragraph 2 of the International Covenant on Civil and Political Rights, thus constituting a human rights violation. Nonetheless, she wished to make a distinction between that violation and the concept of defamation. In the report she had submitted, together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, to the Human Rights Council in September 2006 (A/HRC/2/3), she had pointed out that defamation was

a legal term and could range from merely denouncing someone's religious belief, even in an academic manner, to committing a human rights violation. If defamation was considered a human rights violation, any person claiming superiority of his or her religion or anyone analysing religion intellectually could be accused of defamation, which would be tantamount to religious persecution. It was possible to criticize religion in an objective matter, while belief in racial superiority was a subjective judgement. A distinction had to be made between those two types of discrimination.

57. Although defamation of religions might offend people, it did not directly result in a violation of their human rights. Laws on blasphemy had been vastly misused and had targeted the most vulnerable, even those who were dispassionate about religion. Making every criticism of religion a human rights violation and subject to legislation would be counterproductive because people might be induced to violate the law and challenge the Government. In India, for instance, many lower-caste people had disobeyed the anti-conversion laws, and it had been impossible to punish everyone.

58. With regard to the conversion of indigenous people, she said that could be a matter of misuse of power rather than defamation. She would be looking into that issue more closely in the future. In that connection, she stressed that Governments should be considering long-term developments, and deciding how they would accommodate their policies with the proliferation of new religions.

59. Turning to the proselytization of religion during humanitarian crises, when people were most vulnerable, she said it was important not merely to adopt regulations but to search for solutions by means of a wider dialogue. She had seen many examples of good practices, where possible conflicts had been averted through consultations, as in the cases of Nigeria and Sri Lanka. There had been good practices in terms of education as well, specifically the work of the "Education for all" movement conducted by the United Nations Educational, Scientific and Cultural Organization (UNESCO), which taught children pluralism and tolerance.

60. **Mr. Bustamante** (Special Rapporteur on the human rights of migrants) said that he had often reiterated the positive effects of migration for both host countries and countries of origin. However, the focus of States had largely been on the better management and control of the movement of migrants and their goods and services rather than on the articulation and protection of their rights. He therefore urged States to incorporate a human rights perspective into their discussions, whether they represented countries of origin, transit or destination. The next Global Forum on Migration and Development, to be held in Manila in 2008, would be an excellent opportunity to promote that perspective.

61. Although there was constructive discussion at the international level, migrants at the national level were increasingly portrayed as "black sheep" and subjected to increased administrative procedures. In addition to the fears that the way of life in the host country would be undermined, migration was often associated with traffickers and people smugglers. Rather than focusing on the negative perceptions of migrants, there should be a debate at the national level on the advisability and relevance of adopting the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

62. Although it was the sovereign right of all States to safeguard their borders and regulate their migration policies, they should ensure respect for the human rights of migrants while enacting and implementing immigration laws. Today, the migrant population, which came from diverse countries, was particularly vulnerable to social exclusion and xenophobia. There had been an increase in incidents of discriminatory behaviour towards migrants in countries of both destination and transit.

63. The legal administration of migrants was not subject to control, and disproportionate powers were exercised by the immigration authorities. States also resorted to police "raids" in private homes, arresting all residents who did not hold documents attesting to legal residence. In the context of irregular migration, the Special Rapporteur was also concerned at the alarming numbers of women and unaccompanied minors who fell prey to trafficking and smuggling networks. The need for migrants to work made them easy prey for the trafficking networks, especially when those networks enjoyed a degree of impunity. Undocumented migrants were at increased risk of having their rights abused; they should be treated with dignity and provided with legal and humanitarian assistance, including urgent medical care. Many migrants paid considerable amounts of money to cross borders and ended up in a

type of debt bondage. Ironically, irregular migration was often the direct result of restrictive migration policies.

64. The Special Rapporteur called on the international community to support countries of origin to generate conditions that allowed their nationals to stay in their own communities. For their part, sending countries should create human rights conditions at the national level to convince potential migrants to stay in their country and should inform them about the risks of falling into the hands of international smuggling and trafficking networks if they left home.

65. **Ms. Castelo** (Portugal), speaking on behalf of the European Union, welcomed the Special Rapporteur's efforts to raise the visibility of the human rights of migrants. The European Union noted that the terms of reference of the Special Rapporteur's mandate remained unchanged despite the review of working methods contained in document E/CN.4/2006/73. The Special Rapporteur should comment on his priorities for future action, inter alia in the context of reform and on how the protection of the human rights of migrants might be advanced by the Human Rights Council and United Nations system as a whole. He should also outline how he intended to enhance cooperation with relevant stakeholders at all levels, including in the interests of women migrants.

66. **Mr. Rees** (United States of America) said that the United States wished to reaffirm its commitment to protecting the human rights of migrants, who had played an important role in building the nation. The previous year, 1.2 million people had become legal permanent residents in the United States, with family reunification accounting for 63 per cent of cases.

67. The Government supported legal, safe and orderly migration and made concerted efforts to warn of the risks of illegal migration and to assist those who found themselves in peril. An elite Border Patrol Search, Trauma and Rescue (BORSTAR) unit had been deployed for that purpose near the border with Mexico.

68. Acts of intolerance, racial discrimination and xenophobia and related crimes against migrants were prohibited under domestic law. The United States had a robust asylum process for people who had a well-founded fear of persecution in their home country. The previous year, over 41,000 refugees from nearly 60 countries had been granted asylum in the United States. They benefited from a range of specially tailored programmes and social services. Proud of its strong immigration tradition, the United States believed that coordination, cooperation and respect for all human beings were the keys to managing migration effectively.

69. **Mr. Ermita** (Philippines) asked what could be done to ensure that efforts to prevent trafficking in human beings did not impede the realization of the human rights of migrants.

70. **Ms. Sutikno** (Indonesia) said that Indonesia was engaged in constructive dialogue with the Special Rapporteur and was in the process of implementing the valuable recommendations he had made in the light of his visit the previous year. She asked how he planned to tackle persistent discrimination and violence against migrants in countries of destination and transit, and what role regional mechanisms should play in that connection.

71. **Mr. Kariyawasam** (Sri Lanka) said that the human rights of migrants received insufficient attention at the international level, despite the contribution they made to the economies of destination countries. At the Global Forum on Migration and Development, held in Brussels, there had been no focus on the human rights of migrants. Moreover, virtually all the countries that had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families were countries of origin. The Special Rapporteur should explain how he proposed to encourage wider ratification of the Convention and promote a rules- and rights-based approach to the issue that was not confined to human rights forums. It was a matter of serious concern to countries of origin that goods and services crossed borders freely, while people were treated worse than commodities.

72. **Mr. Ochoa** (Mexico) said he agreed that a rights-based approach to the issue of migration was essential and wondered how the agenda of the next Global Forum might be improved. Resources should be allocated not for the building of walls, but for development. Bridges for mutual understanding and cooperation were also vital.

73. **Mr. Attiya** (Egypt) joined with previous speakers in commending the Special Rapporteur on his work. There was a need for a comprehensive approach to the realization of migrants' human rights. His delegation wondered how more Member States might be

convinced to ratify the Convention and how the Special Rapporteur envisaged cooperation with States that were not parties to the Convention.

74. **Mr. Akindele** (Nigeria) said that his delegation agreed with all the Special Rapporteur's recommendations. Migrants must be treated with dignity and full respect for their human rights. Memorandums of understanding were required between sending and receiving countries, and more funding should be allocated to United Nations efforts to tackle the crime of human trafficking.

75. **Mr. Ke** Yousheng (China) said that migration should not be viewed as a "problem" since it had contributed to the social and economic development of destination countries. Sending countries should be encouraged to create more development opportunities at home, while destination countries should do more to improve the situation of migrants and combat racial discrimination and xenophobia. He asked the Special Rapporteur to explain how he intended to cooperate with other special procedures for the promotion and protection of the rights of migrants.

76. **Ms. González** (Cuba) said that Cuba supported regulated, orderly migration and welcomed the opportunity to discuss the matter with other Member States. She praised the Special Rapporteur's efforts on behalf of migrants, concurring with his assessment of the situation. She would be interested to read any recommendations he had made following other country visits.

77. **Mr. Sergiwa** (Libyan Arab Jamahiriya) said that the forced return of migrants constituted a gross violation of human rights. His Government took a keen interest in the issue of migration and had hosted a regional conference to study its many aspects. The Libyan Arab Jamahiriya was committed to the humane treatment of migrants in accordance with its obligations under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and other relevant international agreements. Lastly, his delegation welcomed the recommendations contained in the report and agreed that there was a need for more resources to promote the human rights of migrants in receiving countries.

78. **Mr. Bustamante** (Special Rapporteur on the human rights of migrants), welcoming the interest expressed by delegations, said that he would make a general statement in response to the questions posed. Regrettably, the world was divided into States that had ratified the Convention and those that had not. That phenomenon was no "act of nature", but an "act of power" that the Organization must address. He agreed that the next Global Forum should stress the human rights dimension of migration. There existed a false perception in many countries that undocumented migrants had no rights, which States had an obligation to dispel.

79. Many countries with a de facto demand for migrant labour, both documented and irregular, had remained silent about the scale of that demand, sometimes refusing even to recognize it. He thus planned to focus on building a consensus around the need for a new standard requiring States to measure that demand objectively. Such information would help combat racist and discriminatory acts against migrants and provide a weapon against xenophobia. It would be in the interests of all parties, except those seeking to exploit migrant labour to maximize profit.

80. The exploitation of children for the sex market was a particularly gross violation of human rights. Such a market was no abstraction; it also had both supply and demand. The Organization must act to ensure that that demand was recognized, or it would be very difficult to realize the human rights of migrants.

The meeting rose at 12.55 p.m.